REMARKS

The office action of December 22, 2004 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 8 through 27 remain in this case, claims 1 through 7 being cancelled and claims 8 through 27 being added by this response. No new matter has been added.

Preliminary Comments

The specification was amended to correct typographical errors and other informalities. No new matter was introduced.

The new claims are fully supported by the specification, as follows. No new matter was introduced. Specifically:

The method of new claim 8 is described on page 7, lines 7-27 of the application.

The limitations of new claims 9 and 10 are described on page 4, lines 2-4 of the application.

The method of new claim 11 is described on page 7, lines 15-17 of the application.

The method of new claim 12 is described on page 2, lines 13-19 of the application.

The method of new claim 13 is described on page 7, line 28- page 8, line 7 of the application.

New claim 14 is a product-by-process claim.

The method of new claim 15 is described on page 7, line 28- page 8, line 7 of the application.

The limitation of new claim 16 is described on page 4, lines 2-4 of the application.

The limitation of new claim 17 is described on page 4, lines 2-4 and page 7, lines 19-20 of the application.

The apparatus of new claim 18 is described on page 7, lines 7-27 of the application.

The limitations of new claims 19 and 20 are described on page 4, lines 2-4 of the application.

The apparatus of new claim 21 is described on page 5, line 22- page 6, line 5 of the application.

The apparatus of new claim 22 is described on page 7, line 28- page 8, line 7 of the application.

The limitation of new claim 23 is described on page 4, lines 2-4 of the application.

The limitation of new claim 24 is described on page 4, lines 2-4 and page 7, lines 19-20 of the application.

The method of new claim 25 is described on page 7, lines 7-27 and page 4, lines 2-4 of the application.

The limitation of claim 26 is described on page 4, lines 2-4 of the application.

The limitation of claim 27 is described on page 7, lines 18-27 of the application.

Objections to the Drawings

The drawings were objected to because in Fig. 1 the spacing between reference number 24a, which appears not to be in the specification, and reference number 28, is too small, and the purpose of the three dots 24 near the top of the drawing is unclear.

The drawings were further objected to because in Fig. 3b, the reference lines are drawn through identifying characters.

The drawings were further objected to because in Fig. 4 through Fig. 6 the shading and characters are unclear.

Replacement drawings for Fig. 1, Fig. 3b, and Fig. 4 addressing the Examiner's objections are filed with this office action response. Fig. 5 and Fig. 6 are deleted with the present response. Reconsideration and withdrawal of the objections are respectfully requested.

Objections to the Specification

The disclosure was objected to for the following informality: at page 5, line 2, the specification recites "cannot received communication".

The phrase "cannot received communication" was corrected to "cannot receive communication".

The disclosure was further objected to for the following informality: at page 5, line 4, "when" should be capitalized.

The objected to "when" was corrected to "When". In addition, a number of further grammatical changes to the specification were made to correct the informalities.

Reconsideration and withdrawal of the objections are respectfully requested.

Objections to the Claims

Claims 1-7 were objected to for the following informality: it is not clear that the expressions in parentheses are intended to be limiting of the scope of the claims.

Claims 1-7 are cancelled by the present response. The objected to expressions in parentheses have not been used in the new claims 8-27.

Claim 4 was further objected to for the following informality: at line 4, the claim refers to "the a first sensor".

Claim 4 is cancelled by the present response.

Reconsideration and withdrawal of the objections are respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1-7 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,247,768 to Elmer *et al.*

"Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in prior pleaded art, there is no anticipation." *Stauffer v. Slenderella Systems of California, Inc.*, 254 F.2d 127, 115 USPQ 347 (9th Cir. 1957).

Claims 1-7 are cancelled by the present response, but to further prosecution of the present case, the Applicant will address Elmer *et al.* as it applies to new claims 8-27.

Independent claim 8 claims, in part, the step of "designating each member either a desired part or an undesired part using the dimensional value for the member".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose that the vehicle is driven at a constant velocity past two stationary detectors a known distance apart and that a length of the vehicle is determined. Elmer *et al.* disclose determining the length of an individual vehicle primarily for tariff purposes. Elmer *et al.* do not disclose comparing a dimension of a plurality of vehicles or designating the vehicles based on the dimension. Elmer *et al.* do not disclose designating each member either a desired part or an undesired part using the dimensional value for the member.

Elmer *et al.* do not disclose each and every element of Applicant's independent claim 8. Therefore, it is respectfully suggested that independent claim 8 is not anticipated by Elmer *et al.*

Dependent claim 9 claims, in part, a method for characterization "wherein the members comprise pins".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose measuring the length of only a vehicle. Elmer *et al.* do not disclose characterizing pins. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 9. Therefore, it is respectfully suggested that dependent claim 9 is not anticipated by Elmer *et al.*

Dependent claim 12 claims, in part, the step of "computing a range from the dimensional values of the plurality of members".

Elmer *et al.* do not disclose comparing the dimension of one vehicle to the dimensions of any other vehicles. Elmer *et al.* do not disclose computing a range from the dimensional values

16

of the plurality of members. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 12. Therefore, it is respectfully suggested that dependent claim 12 is not anticipated by Elmer *et al.*

Dependent claim 14 claims, in part, the step of "separating the desired parts and the undesired parts".

Since Elmer *et al.* do not disclose designating each member either a desired or an undesired part, Elmer *et al.* can not and do not disclose separating desired parts and undesired parts. Elmer *et al.* do not disclose any kind of separation of measured items. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 14. Therefore, it is respectfully suggested that dependent claim 14 is not anticipated by Elmer *et al.*

Dependent claim 15 claims, in part, the steps of "moving desired parts from the channel to a pass container and moving undesired parts from the channel to a fail container".

Since Elmer *et al.* do not disclose designating each member either a desired or an undesired part, Elmer *et al.* can not and do not disclose separating desired parts and undesired parts. Elmer *et al.* do not disclose any kind of separation of measured items. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 15. Therefore, it is respectfully suggested that dependent claim 15 is not anticipated by Elmer *et al.*

Dependent claim 16 claims, in part, a method for characterization "wherein the desired parts comprise pins".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose measuring the length of only a vehicle. Elmer *et al.* do not disclose characterizing pins. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 16. Therefore, it is respectfully suggested that dependent claim 16 is not anticipated by Elmer *et al.*

Dependent claim 17 claims, in part, a method for characterization "wherein at least one distance in the set of distances is equal to a dimensional value of the desired part".

Elmer *et al.* disclose a measuring system using a pair of sensors for measuring the length of a vehicle. Elmer *et al.* do not disclose the distance between the pair of sensors. Elmer *et al.* do

17

not disclose that "at least one distance in the set of distances is equal to a dimensional value of the desired part". Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 17. Therefore, it is respectfully suggested that dependent claim 17 is not anticipated by Elmer *et al.*

Dependent claims 9 through 17, being dependent upon and further limiting independent claim 8, should also be allowable for that reason, as well as for the additional recitations they contain.

Independent claim 18 claims, in part, "a microprocessor for receiving time segments recorded by the plurality of receivers, computing a dimensional value for each member, and comparing the dimensional value for each member to a desired value to designate the member either a desired part or an undesired part".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose that the vehicle is driven at a constant velocity past two stationary detectors a known distance apart and that a length of the vehicle is determined. Elmer *et al.* disclose determining the length of an individual vehicle primarily for tariff purposes. Elmer *et al.* do not disclose comparing a dimension of a plurality of vehicles or designating the vehicles based on the dimension. Elmer *et al.* do not disclose a microprocessor for receiving time segments recorded by the plurality of receivers, computing a dimensional value for each member, and comparing the dimensional value for each member to a desired value to designate the member either a desired part or an undesired part.

Elmer *et al.* do not disclose each and every element of Applicant's independent claim 18. Therefore, it is respectfully suggested that independent claim 18 is not anticipated by Elmer *et al.*

Dependent claim 19 claims, in part, a device for characterization "wherein the members comprise pins".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose measuring the length of only a vehicle. Elmer *et al.* do not disclose a device for characterization of pins. Elmer *et al.* do not disclose each and every element of Applicant's

dependent claim 19. Therefore, it is respectfully suggested that dependent claim 19 is not anticipated by Elmer *et al.*

Dependent claim 22 claims, in part, a device further comprising "a first actuator for moving desired parts from the channel to a pass container; and a second actuator for moving undesired parts from the channel to a fail container".

Since Elmer *et al.* do not disclose designating each member either a desired or an undesired part, Elmer *et al.* can not and do not disclose separating desired parts and undesired parts. Elmer *et al.* do not disclose any kind of separation of measured items. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 22. Therefore, it is respectfully suggested that dependent claim 22 is not anticipated by Elmer *et al.*

Dependent claim 23 claims, in part, a device for characterization "wherein the desired parts comprise pins".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose measuring the length of only a vehicle. Elmer *et al.* do not disclose a device for characterization of pins. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 23. Therefore, it is respectfully suggested that dependent claim 23 is not anticipated by Elmer *et al.*

Dependent claim 24 claims, in part, a device for characterization "wherein at least one distance in the set of distances is equal to a dimensional value of the desired part".

Elmer *et al.* disclose a measuring system using a pair of sensors for measuring the length of a vehicle. Elmer *et al.* do not disclose the distance between the pair of sensors. Elmer *et al.* do not disclose that "at least one distance in the set of distances is equal to a dimensional value of the desired part". Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 24. Therefore, it is respectfully suggested that dependent claim 24 is not anticipated by Elmer *et al.*

Dependent claims 19 through 24, being dependent upon and further limiting independent claim 18, should also be allowable for that reason, as well as for the additional recitations they contain.

Independent claim 25 claims, in part, the step of "fixing a set of distances between the sensors, wherein at least one distance in the set of distances is equal to a dimensional value of at least one desired part".

Elmer *et al.* disclose a measuring system using a pair of sensors for measuring the length of a vehicle. Elmer *et al.* do not disclose the distance between the pair of sensors. Elmer *et al.* do not disclose that "at least one distance in the set of distances is equal to a dimensional value of at least one desired part".

Elmer *et al.* do not disclose each and every element of Applicant's independent claim 25. Therefore, it is respectfully suggested that independent claim 25 is not anticipated by Elmer *et al.*

Dependent claim 26 claims, in part, a method for characterization "wherein the desired parts comprise pins".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose measuring the length of only a vehicle. Elmer *et al.* do not disclose a method for characterization of pins. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 26. Therefore, it is respectfully suggested that dependent claim 26 is not anticipated by Elmer *et al.*

Dependent claim 27 claims, in part, "the step of designating the member as the desired part if the dimensional value of the member equals the dimensional value of the desired part".

Elmer *et al.* disclose a measuring system for measuring the length of a vehicle. Elmer *et al.* disclose determining the length of an individual vehicle primarily for tariff purposes. Elmer *et al.* do not disclose designating a member a desired part using the dimensional value for the member. Elmer *et al.* do not disclose each and every element of Applicant's dependent claim 27. Therefore, it is respectfully suggested that dependent claim 27 is not anticipated by Elmer *et al.*

Dependent claims 26 and 27, being dependent upon and further limiting independent claim 25, should also be allowable for that reason, as well as for the additional recitations they contain.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:

--Patton--
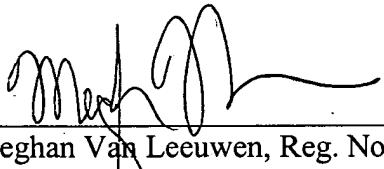
By: _____
--Meghan Van Leeuwen, Reg. No. 45,612--
Attorney for Applicant

BROWN & MICHAELS, P.C.
400 M&T Bank Building - 118 N. Tioga St.
Ithaca, NY 14850
(607) 256-2000 • (607) 256-3628 (fax)
e-mail: docket@bpmlegal.com
Dated: _____3/24/06_____

Amendments to the Drawings:

The attached sheets of drawings include changes as listed below. The attached replacement sheets replace the original sheets.

The changes are as follows.

In Fig. 1: Reference numeral 24a was corrected to 24. Stray reference numeral 28 was removed. The three dots at the top of the figure and their labels were removed. A line from the second dot from the top to its reference numeral 24 was added.

In Fig. 2: "delta" was replaced with Δ, and "1" and "2" were subscripted.

Fig. 3 was renamed Fig. 3A.

In Fig. 4 the shading was removed, unclear characters were replaced, and jagged lines were replaced with clean lines.

Originally filed Figs. 5 and 6 are deleted from the application.

Attachment: 5 Replacement Sheets